

1 BARRY J. PORTMAN
2 Federal Public Defender
2 VARELL L. FULLER
3 Assistant Federal Public Defender
3 160 West Santa Clara Street, Suite 575
3 San Jose, CA 95113
4 Telephone: (408) 291-7753

5 Counsel for Defendant AVILA-SOTO

6

7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 SAN JOSE DIVISION

10

11 UNITED STATES OF AMERICA,) No. CR 09-00580 EJD
12 Plaintiff,) STIPULATION AND ~~PROPOSED~~
13 vs.) ORDER CONTINUING HEARING TO
14 CHRISTINA AVILA-SOTO,) OCTOBER 17, 2011, AND EXCLUDING
15 Defendant.) TIME UNDER THE SPEEDY TRIAL ACT
16

17

18 **STIPULATION**

19 The parties, Christina Avila-Soto and the government, acting through their respective
20 counsel, hereby stipulate, subject to the Court's approval, that the status hearing date currently
21 set for September 12, 2011, be vacated and continued to October 17, 2011, at 1:30 p.m.

22 The reason for the requested continuance is defense counsel requires additional time to
23 complete on-going investigation with respect to the mitigating circumstances that precipitated
24 Ms. Avila-Soto's return to the United States, which involve the investigation of her apparent
25 shooting in Mexico, and the resulting injuries she sustained. Defense counsel believes this
26 information is relevant to the parties on-going settlement discussions, and anticipates presenting

Stipulation and [Proposed] Order Continuing
Hearing

No. CR 09-00580 EJD

1 the results of that investigation to government counsel once complete.

2 Accordingly, the parties agree and stipulate that time should be excluded from September
3 12, 2011, through and including October 17, 2011, under the Speedy Trial Act, 18 U.S.C. §
4 3161(h)(7)(A) and (B)(iv), for effective preparation and defense investigation. Accordingly, Ms.
5 Avila-Soto and the government agree that granting the requested exclusion of time will serve the
6 interest of justice and the ends of justice outweigh the interest of the public and the defendant in
7 a speedy trial.

8 IT IS SO STIPULATED.

9 Dated: September 9, 2011

10 _____/s/
11 VARELL L. FULLER
12 Assistant Federal Public Defender

13 Dated: September 9, 2011

14 _____/s/
15 SUZANNE M. DeBERRY
16 Special Assistant United States Attorney
17
18
19
20
21
22
23
24
25
26

[Proposed] ORDER

GOOD CAUSE APPEARING, upon stipulation of the parties, IT IS HEREBY
ORDERED that the status hearing currently set for September 12, 2011, shall be continued to
October 17, 2011, at 1:30 p.m.

THE COURT FINDS that failing to exclude the time between September 12, 2011, and October 17, 2011, would unreasonably deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(7)(B)(iv).

THE COURT FURTHER FINDS that the ends of justice served by excluding the time between September 12, 2011, and October 17, 2011, from computation under the Speedy Trial Act outweigh the interests of the public and the defendant in a speedy trial.

THEREFORE, IT IS HEREBY ORDERED that the time between September 12, 2011, and October 17, 2011, shall be excluded from computation under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) and (B)(iv).

IT IS SO ORDERED.

Dated: September 9, 2011

Ernest J. Dank

THE HONORABLE EDWARD J. DAVILA
United States District Judge